

Appl. No. 10/511,498
Amdt. dated February 17, 2006
Reply to Office Action of October 19, 2005

REMARKS

Reconsideration of this application is respectfully requested. Applicants believe that consideration of this amendment is proper because they have attempted to comply with every requirement expressly set forth in the previous Office Action dated October 19, 2005 and believe the application is now in condition for allowance.

The Declaration of Inventorship was found to be defective because non-initialed or non-dated alterations were made to the document. Attached is a new Declaration signed by Raymond A. Kaligian, II having the corrections made, and signed by Mr. Kaligian.

Also included with this response is a Petition for Correction of Inventorship in a Patent Under 37 C.F.R. § 1.324. Salvatore C. Immordino, co-inventor of the '099 Patent, is being added as an inventor. Since the broadest claim in this application claims the addition of polysaccharides to a sprayable, machinable plaster, as disclosed in the '099 Patent, and because Mr. Immordino helped develop the first formulation that included polysaccharides, it is believed that Mr. Immordino should be listed as a co-inventor on the present application. The new Declaration has also been signed by Mr. Immordino and all inventors have consented to this change.

The signature on the original Declaration of Eldon L. Whiteside, who did not sign the enclosed Declaration, is believed to be effective.

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Claim 21 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which Applicant regards as his invention. The phrase “desired shape” is believed to render the claim vague and indefinite. The word “desired” has been deleted from claim 21 to make it definite. Stating that the plaster is “machined into a shape” is not vague, and it conveys the meaning that no specific shape is required.

Claims 1-22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,355,099 (“’099 Patent”). The use of polysaccharides in a sprayable plaster formulation was disclosed in the ‘099 Patent by revealing the use of cellulose. In an attached Declaration under § 132, common inventor Raymond A. Kaligian, II states that long term testing revealed stability problems when methylcellulose was tested in sprayable plaster formulations. Mr. Kaligian then worked with Mr. Lettkeman and Mr. Whiteside to discover additional polysaccharides that cured the stability problem in the original formulation. This is evidence that the present invention is derived from the inventors of the ‘099 Patent, and thus was not “by another.”

All claims stand rejected under the judicially created double patenting doctrine. Applicants enclose a timely filed Terminal Disclaimer in compliance with 37 C.F.R. § 1.321. Since the Terminal Disclaimer overcomes the double patenting rejection,

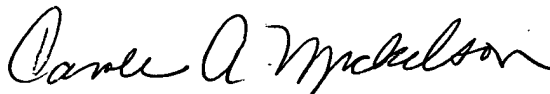
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Applicants request that such rejection be withdrawn and the subject claims be allowed to issue.

By the above arguments and amendments, Applicants believe that they have complied with all requirements expressly set forth in the pending Office Action. Issuance of a Notice of Allowance on the claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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